

Chapter:	4F	COPYRIGHT (BORDER MEASURES) RULES	Gazette Number	Version Date
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		Empowering section		30/06/1997
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(Cap 4, section 54)*

[20 December 1996] *L.N. 547 of 1996*

(Originally L.N. 482 of 1996)

Note:

* **These Rules were made under section 22 of the repealed Copyright Ordinance (Cap 39). See section 42 of Schedule 2 to the Copyright Ordinance (Cap 528).**

Section:	1	(Omitted as spent)		30/06/1997
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PART I

PRELIMINARY

(Omitted as spent)

(Enacted 1996)

Section:	2	Interpretation		30/06/1997
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In these Rules-

"Court" (法院) means the High Court;

"judge" (法官) means a judge of the Court.

(Enacted 1996)

Section:	3	Application of Rules of Supreme Court, etc.		30/06/1997
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Subject to these Rules, the Rules of the Supreme Court (Cap 4 sub. leg.) and any other rules made under the Supreme Court Ordinance (Cap 4) shall apply to proceedings under Part III of the Ordinance, with such modifications as are necessary for the purpose.

(Enacted 1996)

Section:	4	Effect of non-compliance with Rules		30/06/1997
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Non-compliance with any of these Rules, or with any rule of practice for the time being in force, shall not render any proceeding void unless the Court so directs, but such proceedings may be set aside, either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Court may think fit.

(Enacted 1996)

Section:	5	Proceedings may be disposed of in chambers, etc.		30/06/1997
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PART II

PROCEEDINGS UNDER PART III OF THE ORDINANCE

(1) Proceedings under sections 13, 14, 15, 16 and 17 of the Ordinance may be disposed of in chambers.

(2) The jurisdiction of the Court under sections 13, 14, 15, 16 and 17 of the Ordinance shall be exercised by a judge.

(Enacted 1996)

Section:	6	Application for detention order	30/06/1997
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(1) An application for an order under section 14(1) of the Ordinance may be made by ex parte originating summons.

(2) The ex parte originating summons shall be in Form No. 11 in Appendix A of the Rules of the Supreme Court (Cap 4 sub. leg.) and shall include the address of the right holder in Hong Kong, or the name and address of his representative in Hong Kong, to which notice shall be directed and for service of documents.

(3) In addition to the matters required by section 13(3) of the Ordinance, the affidavit in support of the application must include the following particulars, to the extent that they are within the right holder's knowledge or are available to him, namely-

- (a) the name and address in Hong Kong of the consignor of the articles in question, or the name and address of his representative in Hong Kong;
- (b) the name and address in Hong Kong of the distributor of the articles, or the name and address of his representative in Hong Kong;
- (c) the name of the country of origin or manufacture of the articles; and
- (d) the name and address of the manufacturer and of his representative in Hong Kong, if any.

(4) The affidavit in support of the application must set forth all facts relied upon in support of the application and must also-

- (a) state that, to the best of the right holder's information and belief, the articles in question are not articles in transit within the meaning assigned by section 2 of the Import and Export Ordinance (Cap 60);
- (b) state that, to the best of the right holder's information and belief, the articles in question are not being imported by a person for his private and domestic use; and
- (c) exhibit a sample of the articles in question if one is available to the right holder.

(5) A right holder who makes an application for an order under section 14(1) of the Ordinance shall serve a copy of the ex parte originating summons and the affidavit in support of the application on the Commissioner as soon as possible before the hearing of the application.

(Enacted 1996)

Section:	7	Application for directions	30/06/1997
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(1) An application under section 15(4) of the Ordinance for directions in carrying out a detention order may be made by summons.

(2) The Commissioner shall serve a copy of the summons on the right holder not less than 2 days before the day fixed for the hearing of the application.

(Enacted 1996)

Section:	8	Application to extend period of detention	30/06/1997
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(1) An application under section 15(7) of the Ordinance to extend the period referred to in section 15(6) of the Ordinance may be made by summons.

(2) A right holder who makes an application under section 15(7) of the Ordinance shall, not less than 2 days before the day fixed for the hearing of the application, serve a copy of the summons on-

- (a) the Commissioner;
- (b) the importer; and
- (c) any other person to whom notice of the seizure or detention is required to be given by the terms of the detention order.

(Enacted 1996)

Section:	9	Application to vary or set aside detention order	30/06/1997
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An application under section 16(1) or (2) of the Ordinance to vary or set aside a detention order may be made by summons.

(Enacted 1996)

Section:	10	Application for disclosure order	30/06/1997
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An application for an order under section 17(2) of the Ordinance requiring the Commissioner to disclose information or a document may be made by originating motion.

(Enacted 1996)

Section:	11	Application for compensation	30/06/1997
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An application under section 21(1) or (2) of the Ordinance for compensation for any loss or damage suffered by reason of the seizure or detention may be made by originating summons.

(Enacted 1996)

Section:	12	Provision of security, etc.	30/06/1997
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Where an order is made under section 14(2) or 15(8) of the Ordinance requiring a right holder to provide security or an equivalent assurance, the right holder shall provide it in such manner, at such time and on such terms (if any) as the Court may direct.

(Enacted 1996)

Section:	13	Service of documents on Commissioner	30/06/1997
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(1) Any notice or other document required to be served on the Commissioner under Part III of the Ordinance or these Rules, including a notice under section 15(6) of the Ordinance that an action for infringement has been brought under the Act, shall be served by delivering the document personally to the duty officer, the Customs and Excise Department, at the address from time to time specified by the Commissioner by notice in the Gazette.

(2) Service is effected at the time of delivery of the notice or other document in accordance with subrule (1).

(Enacted 1996)

Section:	14	Service of documents by Commissioner or authorized officers	30/06/1997
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(1) Any notice or other document required to be served by the Commissioner or an authorized officer under section 15(5) of the Ordinance or these Rules shall be deemed to have been duly served on the person concerned if it is-

- (a) in the case of the right holder-
 - (i) delivered to him personally; or
 - (ii) addressed to him and left at the address for service given in the ex parte originating summons referred to in rule 6; and
- (b) in the case of any other person-
 - (i) delivered to him personally; or
 - (ii) addressed to him and left at his usual or last known place of abode or business.

(2) Where a document cannot be served on a person in accordance with subrule (1), it shall be deemed to have been duly served on the person if it is exhibited, for a period of not less than 4 days, in such public places as the Commissioner may from time to time specify by notice in the Gazette.

(Enacted 1996)